AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. No. 2 of 2002

Petitioners	1.	M.P.Rajya Beej Evam Farm Vikas Nigam, Through its Managing Director, Bhopal (M.P.)
	2.	The Manager, M.P.Rajya Beej Evam Farm Vikas Nigam, Unit Pokhra, District Raipur.

Versus

Respondents	1.	The Presiding Officer, Labour Court, Raipur, District Raipur.
	2.	The President, Chhattisgarh Krishi And Van Karamchari Sangh, 25/12 Nehru Nagar, Bhilai (Chhattisgarh).
	3.	Chhattisgarh Rajya Beej Evam Krishi Vikas Nigam, Through its Managing Director, Beej Bhawan, Mahasamund Road, Telibandha, Raipur (C.G.)

WRIT PETITION UNDER ARTICLES 226/227 OF THE COSTITUTION OF INDIA

SB: Hon'ble Mr. Justice **Satish K. Agnihotri**

Shri Shashank Thakur, Advocate for the petitioners.

Shri H. B. Agarwal, Senior Advocate with Shri J. K. Gupta, Advocate for the respondent No. 2.

ORDER

(Passed on this 24th day of April, 2007)

1. By this petition, the petitioner has prayed for a suitable writ or direction to quash the impugned award dated 21st September, 2001 (Annexure P/6) passed by the Labour Court, Raipur in Case No. 63/I.D.Act/Reference/97.

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2. The brief facts, in nutshell, are that the respondent No.2-Union raised an industrial dispute which was referred to the Labour Court, Raipur, in the following terms :-

> Whether the regularization of Shri Raju and 39 other labourers was valid and correct ? If not, what relief they are entitled to and what direction could be given to the employer ?

3. The respondent No.2 filed statement of claim in which it was stated that the labourers were engaged on daily wages in the Pokhra farm of the State Seed and Farm Development Corporation. They were working for more than 240 days in a year but the petitioners have not regularized their services. The petitioners have submitted their counter, denying the averments made in the statement of claim, stating that there is no regular work for the labourers, they were being engaged for seasonal work. The agriculture work starts from the last week of June or first week of July and the work remain available only till the third week of December in every year. As the agriculture work is seasonal work, therefore, the respondent No.2 are not entitled for regularization.

4. After recording the evidence of both the parties and having heard learned counsel appearing for the parties, the Labour Court vide impugned award dated 21st September, 2001 (Annexure P/6) passed in Case No. 63/I.D.Act/Reference/97, directed the petitioners to categories and regularize forty labourers w.e.f. 19.9.1997. It was further directed to pay them salary, allowances and other facilities, akin to other regular labourers w.e.f. 19.9.1997.

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5. In view of the settled position of law as enunciated by a Constitutional Bench of the Supreme Court in the case of ***Secretary, State of Karnataka and others Vs. Umadevi***[1] which was followed later on in various decisions by the Supreme Court, viz. ***Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others***[2], ***Surinder Prasad Tiwari vs. U.P. Rajya Krishi Utpadan Mandi Parishad and others***[3]; ***Nagar Mahapalika (now Municipal Corpn.) vs. State of U.P. and others***[4] and ***U.P. State Road Transport Corporation vs. Man Singh***[5], daily rated, temporary or ad hoc appointees have no right to the post as their appointment was not in accordance with the constitutional scheme of the appointment and not in accordance with any Rules, Regulations, as framed under the proviso to Article 309 of the Constitution of India. In the present case the respondent No.2 were appointed for seasonal work, not even on daily wages.

6. Learned counsel appearing for the respondent No.2 cited a decision of the Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation ltd. Vs. Engineering Mazdoor Sangh**[6] wherein while considering the question of entitlement of seasonal workers for regularization, it was held that the seasonal workers cannot be treated on par with regular employees and cannot be adjusted in permanent employment when their need was only seasonal. However, it was directed that till the workmen are not absorbed against regular vacancies in the concerned category no recruitment from outside will be made and even in matters of seasonal employment the said workmen shall be first considered for employment before any other workmen are engaged for the same type of work in the field.

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7. In view of the foregoing the impugned award dated 21st September, 2001 (Annexure P/6) passed by the Labour Court, Raipur in Case No. 63/I.D.Act/Reference/97 is set aside, with the direction to the petitioners that the case of the respondent No.2/labourers be considered in terms of the order passed by the Hon'ble Supreme Court in the matter of **Oil and Natural Gas Corporation ltd.**(supra).

8. With the above direction this petition is allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684
4 2006 AIR SCW 2497
5 2006 AIR SCW 5159
6. 2007(1) M.P.L.J. 443

Thakur